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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,677	08/08/2006	Achim Kraus	022862-1093	9230
23409 7590 12/07/2009 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				
EXAMINER				
GRAHAM, GARY K				
ART UNIT		PAPER NUMBER		
3727				
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12/07/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/588,677

Applicant(s)

KRAUS ET AL.

Examiner

Gary K. Graham

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/86)
Paper No(s)/Mail Date 20060808 & 20091110
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the oval cross section must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 5, there is no antecedent basis for “the motor vehicle”. In line 6, there is no antecedent basis for “the interior”.

In claims 3, 4, 5, 6, 10, 11, 12 and 13, reference to "at least one hole" appear somewhat confusing. Claim 1 has only set forth a single hole. It is unclear whether applicant is referencing the hole already set forth or defining additional holes.

In claim 5, line 2, there is no antecedent basis for “the plane”.

In claim 9, line 2, there is no antecedent basis for “the fastening point”. In line 3, there is no antecedent basis for "the fastening section".

In claim 11, it appears confusing and/or improper to set forth the hole as having a rectangular cross section when claim 10 has already set forth the cross section as circular or oval. If applicant is defining multiple holes with different cross sections for the breaking point, such does not appear adequately described in the specification and appears as an improper embodiment. Clarification is requested.

In claim 16, line 2, there is no antecedent basis for “the fastening point”. In line 3, there is no antecedent basis for "the fastening section".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuda (EP patent 1219513).

The patent to Matsuda discloses the invention as is claimed. Matsuda discloses a wiper device (figs.5,7) comprised of a wiper bearing (14, 15), a wiper shaft (104,105) positioned in a tube (not separately numbered but clearly shown) of the bearing, a wiper lever (102) on the shaft and a plate-like fastening element (14a,15a) embodied as one-piece with the bearing to fasten the bearing to a motor vehicle via a fastener (141,151). Predetermined breaking points (14c,15c) are provided on the bearing between a fastening point defined by the fastener and the tube. The breaking points are defined by a hole (14b,15b) in the bearing. Such hole appears as oval (fig.7).

With respect to claim 1 and setting forth that the tube is molded, such does not act to distinguish from Matsuda. Such relates to the method of making the tube. How the tube is made, at least with respect to molding, does not appear of particular relevance in the product claim 1.

With respect to claims 4 and 11, note that the hole (14b) is considered to have a rectangular cross section (see fig.5), at least as far as defined and understood.

With respect to claims 5 and 12, note figures 2 and 7 wherein the hole is elongated and thus "runs" in a plane of the fastening element (15a).

With respect to claims 6 and 13, note figure 5 wherein the hole depth extends perpendicular to a plane of the fastening element. Thus, the hole is considered to “run” perpendicular to a plane of the fastening element, at least as far as defined and understood.

With respect to claim 8, the particular manner of making the bearing does not act to distinguish from that which is suggested by Matsuda. How the bearing is made, at least with respect to diecast, does not appear of particular relevance in the product claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 7 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuda (EP patent 1219513) in view of Zimmer (US patent application publication 2003/0077013).

Matsuda discloses all of the above recited subject matter with the exception of the wiper bearing being at least partially of plastics.

The publication to Zimmer discloses making wiper bearings (14) of plastics material by molding.

It is noted that making of components in the windshield wiper art of plastics is well known due to the lightweight and corrosion resistant properties of plastics. It would have been obvious to one of skill in the art to make the wiper bearing of Matsuda of plastics, as clearly suggested by Zimmer, to provide a lightweight, corrosion resistant and inexpensive wiper bearing.

With respect to claim 15, the particular manner of making the bearing does not act to distinguish from that which is suggested by Matsuda/Zimmer. How the bearing is made, at least with respect to diecast, does not appear of particular relevance in the product claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3727

GKG
4 December 2009